

PUBLIC LAW BOARD NO. 7544

**Brotherhood of Maintenance of Way
Employees Division - IBT
Rail Conference**

and

SOO Line Railroad Company (CP)

Case No. 63
Award No. 63
System File No. D-219-16-445-114

Background

On December 12, 2016, the Carrier issued to Claimant M. Albert a notice of formal investigation and hearing. The notice stated, in part, the following:

"The purpose of this investigation/hearing is to determine the facts and circumstances and to place responsibility, if any, in connection with your alleged failure to properly fill out your working limits form while working in another employee's working limits on December 9, 2016. This indicates a possible violation of, but is not limited to, the following rules:

OTS 21.3.1 Working Limits Form"

On January 30, 2017, the investigation and hearing convened wherein Claimant and his representative were afforded the opportunity to present testimony and other evidence as well as examine the Carrier's witness and three (3) exhibits.

On February 7, 2017, the General Roadmaster - St. Paul issued a decision letter stating that the record of the proceeding established Claimant's violation of charged rule. Based on the violation, severity of the incident and Claimant's disciplinary history, CP assessed Claimant a ten (10) day suspension without pay.

On March 17, 2017, the Organization and the Carrier agreed to progress Claimant's discipline dispute for resolution before this Board using the abbreviated procedure provided for in Paragraph (K) of the PLB Agreement.

Findings

Public Law Board No. 7544, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

Consistent with the PLB Agreement for this Board, the evidentiary record in this proceeding is comprised of the following: (A) notice of investigation, (B) transcript of investigation and all related exhibits, (C) discipline assessment letter and (D) on-property correspondence related to progression of the claim.

On December 9, 2016, Claimant was the Employee in Charge ("EIC") for a six (6) person RFD welding crew. Claimant required track protection for swinging a piece of rail over the mainline with a crane from a BTM truck and for "prep work" at a location for the welding crew. Claimant discussed track protection with the Supervisor Production and another EIC since he was performing work within that EIC's track and time jurisdiction.

OTS 21.3.1, Working Limits Form, states that "[w]henver working limits will be jointly occupied by other employees or trains, the Working Limits Form must be filled out by the [EIC] and by those that are entering the working limits[.]" Although Claimant entered the working limits of the other EIC and jointly occupied that area, Claimant did not complete or fill out the form. Claimant is knowledgeable about the Working Limits form and rules qualified; he has completed the form on prior occasions.

The Board finds there is substantial evidence in support of the Carrier's decision to assess discipline. Since the discipline is not arbitrary or an abuse of discretion, the claim is denied. In denying the claim, the Board has considered all arguments and testimony presented by the Organization in defense of Claimant.

Award

Claim denied.



Patrick Halter
Neutral Member



Anthony Mosso
Carrier Member



Ryan Hidalgo
Organization Member

Dated on this 5th day
of Jan., 2018